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CONCORD, N.H.

1958

October 22

Philip D. Estabrook, D. C.
Claremont,
New Hampshire

Dear Dr. Estabrook:

In your letter of October 14th you raise several questions relating to the examination and licensing of applicants by the Board of Chiropractic Examiners. Your letter resulted from our telephone conversation of the same date in the course of which these questions were discussed. We understand that you are primarily concerned with those chiropractors who charge patients on the so-called G.P.C. system. G.P.C. is that type of donation system under which the practitioner permits patients to pay for services on a donation basis. No specific fees are charged.

We understand that most G.P.C. chiropractors are graduates of the Palmer School of Chiropractic. In your letter you state that the Palmer School of Chiropractic meets the educational standards of RSA 316. You request our advice as to whether the Board of Chiropractic Examiners may deny examination and licensure to graduates of the school. In our opinion the Board may not deny examination to Palmer graduates. RSA 316 can in no way be construed as precluding examination and licensure to graduates of a school meeting specified educational standards merely because some graduates of the school are G.P.C. practitioners. In an opinion to your Board dated May 22, 1958, Assistant Attorney General John J. Zimmerman ruled that the Board of Chiropractic Examiners has no power to regulate the fees charged by chiropractors, or to set minimum fees for chiropractic services. Denying licensure to Palmer graduates would constitute an attempt to do indirectly that which under the law cannot be done directly.

You also ask whether applicants for examination can be required to sign a pledge obliging them to live up to the Code of Ethics of The New Hampshire Chiropractic Association. We are aware of the recent controversy existing as a result of action by the New Hampshire Chiropractic Association in ousting G.P.C. chiropractors

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for failure to comply with the schedule of minimum fees established in the Code of Ethics of the Association. To the extent that the pledge to which you refer would purport to bind applicants to comply with the minimum fee schedule we are of the opinion that it is not authorized by law.

You also ask whether the Board has the right to interrogate applicants so as to establish whether or not they intend to practice under the G.P.C. system, and if so, to refuse examination to those indicating that they have such intentions. This question is also answered in the negative.

In summary and of general application to all of these questions we advise that the Board of Chiropractic Examiners is without authority to either directly or indirectly establish a schedule of minimum fees, or to take any action which would deny duly qualified chiropractors the right to practice in this state because they charge on the G.P.C. system.

You also ask whether the Board of Chiropractic Examiners is legally empowered to temporarily postpone an examination. We assume that this question is not related to the G.P.C. controversy. The Board is required to conduct examinations, but the law does not specify the exact time or dates when those examinations must be given. We are aware of no provision which would prevent the Board from postponing an examination. As long as examinations are given at reasonable times with proper advance notice to the applicants we believe that the specific date is largely within the discretion of the Board.

As you requested on the telephone we are sending a copy of this letter to the other board members and to Dr. Charles W. Anderson, 37 Court Street, Exeter, New Hampshire.

Very truly yours,

Elmer T. Bourque
Assistant Attorney General

ETB/lt.